

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MDL Docket No. 1629
Master File No. 04-10981

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IN RE: NEURONTIN MARKETING
SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO:

Shearer v. Pfizer Inc, 1:07-cv-11428-WGY

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DAILY TRANSCRIPT OF PRELIMINARY
JURY INSTRUCTIONS, OPENING
STATEMENTS and THE EVIDENCE
(Volume 2)

BEFORE: The Honorable William G. Young,
District Judge, and a Jury

APPEARANCES:

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- and -

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- and -

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1 Courthouse Way
Boston, Massachusetts

March 31, 2010

A P P E A R A N C E S (Cont'd)

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- and -

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SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP (By Catherine B. Stevens, Esq. and Mark S. Cheffo, Esq.), Four Times Square, New York, New York 10036, on behalf of the Defendant

THE CLERK: All rise. Court is in session, please be seated.

Calling Civil Action 07-11428, Shearer v. Pfizer.

Oh, sorry, Judge.

MR. ROSENKRANZ: Good morning, your Honor.

THE COURT: Good morning, counsel. Would you come over here to the side bar, this doesn't have to be on the record.

(Side bar conference off the record.)

THE COURT: We'll stand in recess until we have the jurors. If they're back there we'll start right at nine o'clock. We'll recess.

THE CLERK: 11 rise. Court is in recess.

(Recess.)

THE CLERK: 11 rise for the jury.

(Whereupon the jury entered the courtroom.)

THE CLERK: Court is in session, please be seated.

THE COURT: Good morning, folks.

THE CLERK: If you would move down one. Thank you. In the second row. Right. Okay, great.

THE COURT: My name is Bill Young. I'm the judge who is assigned to preside in this session of the Court. You've already met my colleague, Magistrate Judge Bowler, who was gracious enough to conduct the impanelment of the jury, but you're stuck with me for the actual trial of the

I N D E X

WITNESS: DIRECT CROSS REDIRECT RECROSS

DAVID FRANKLIN

By Mr. London 46 150

By Mr. Ohlemeyer 120

FOR IN

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case. That's my responsibility.

You were sworn as jurors. Mr. Newman, the Court appoints you foreman of this jury.

Let me take a few minutes to explain in detail exactly what's going to happen in this case and to tell you a little bit about what your function is in this case because you are the most important people in the courtroom.

At this time, in this courtroom, there are thirteen judges. You twelve men and women are the judges of the facts. You are the only judges of the facts. I'm the judge of the law.

Now, let's consider a moment what that means to be judges of the facts. This is informal, but I want to ask you this: Do any of come from towns where they have direct town meeting, everyone can get, go to town meeting and vote? Does anyone? Thank you. Thank you.

When I'm picking a jury that's the first thing I ask of the whole group. And you see you people who come from towns where they have direct town meeting, you have the experience of direct democracy, the people themselves ruling directly. I don't come from such a town. But in those towns everybody can go to town meeting. Everybody, if you're 18 years of age or older, you can go to town meeting and you 11 can vote. You vote whether to buy another fire engine, raise the teachers' salaries, close the town dump.

1 A No. No.
 2 Q Okay.
 3 A I didn't meet with them before the deposition either.
 4 Q But you met with them yesterday?
 5 A They asked for time.
 6 Q Now, Dr. Franklin, Mr. Franklin, the doctors you met
 7 with in the four months you were at Parke-Davis seemed to
 8 you to be typically hard working, critical thinking doctors,
 9 didn't they?
 10 A Yes.
 11 Q They were a cross-section of the kind of doctors that
 12 you would find in an area like this, right?
 13 A Yes.
 14 Q Trying their best to help their patients?
 15 A Yes.
 16 Q Right.
 17 And at the time that you joined Parke-Davis you
 18 knew, didn't you, that Pfizer didn't invent Neurontin,
 19 right?
 20 A I think it came from a Japanese company or -- I don't --
 21 I don't recall specifically the origins of Neurontin.
 22 Q You learned, though, that it was approved by the FDA for
 23 the adjunctive treatment of epileptic seizures in about
 24 1993; isn't that right?
 25 A That's when it was approved, yes.

1 Q And you later learned that it was approved by the FDA in
 2 2002 to treat pain associated with post-herpetic neurology,
 3 right?
 4 A Yeah, that was long after I left the company.
 5 Q And referring to Exhibit 6000, do you know --
 6 A What page number is 6000.
 7 Q No, it's the time line I showed you.
 8 A All right.
 9 Q Do you know what the medical officer's role is at the
 10 FDA in reviewing a New Drug Application?
 11 A I think they're the people that, the medical officer at
 12 the FDA I believe is the individual who then reviews 11 of
 13 the data analysis, gets their expert, sometimes they'll have
 14 committees, expert committees, and that sort of stuff, and
 15 they review all the data, and that's the person who makes
 16 the final set of decisions or group of people that make the
 17 final set of decisions.
 18 Q Do you know who the medical officer was at the FDA who
 19 reviewed the Neurontin application prior to its approval in
 20 1993?
 21 A I believe that we saw it earlier, it was something
 22 McCormick.
 23 Q McCormick, right.
 24 And am I correct, let me ask you to read a portion
 25 of Exhibit 6000 for us. The February 14th entry on that.

1 Can you read that for us.
 2 A Yes. Out loud?
 3 Q Yes, please.
 4 A In the documents that I reviewed, both in my
 5 responsibility as a medical officer in epilepsy and also in
 6 my review of the Neurontin application for post-herpetic
 7 neuralgia, I did not see any -- and this is boldfaced -- I
 8 did not see anything that would suggest an increased risk of
 9 suicidality.
 10 Q And who is that statement attributed to?
 11 A It's February 14th, 2008, the McCormick deposition.
 12 Q And she to your knowledge was the medical officer who
 13 reviewed the Neurontin applications?
 14 A Yes.
 15 Q Thank you.
 16 A Yes.
 17 Q Now, to get a drug approved you have to submit
 18 controlled studies, don't you?
 19 A Yes.
 20 Q One of the slides Mr. London showed you had a
 21 bullet point about anecdotal studies?
 22 A Yes.
 23 Q Is there a difference between a controlled study and an
 24 anecdotal study?
 25 A Yes, absolutely.

1 Q It's a big difference, isn't it?
 2 A Giant difference. 11 the difference.
 3 Q Because a controlled study takes two groups of people
 4 that seem, that are identical and tries to compare what
 5 happens to them when one takes a drug and one takes a
 6 placebo or sugar pill, right?
 7 A Not in 11 circumstances is there a placebo. But in
 8 principle, yes.
 9 Q An anecdotal report is an observation of something that
 10 occurs in somebody at a particular point in time?
 11 A That's right.
 12 Q And if you're trying to prove something the more
 13 reliable evidence is the controlled study, not the anecdotal
 14 report?
 15 A I would argue that the anecdotal report is not evidence.
 16 Q Now, I don't want to belabor this --
 17 A It's the lowest form of evidence.
 18 Q The anecdotal report?
 19 A Yes.
 20 Q And that's because there might be other explanations for
 21 what you are observing?
 22 A Exactly.
 23 Q Now, Mr. London spent some time with this, I don't want
 24 to belabor it, but there's a difference between an off-label
 25 prescription and off-label promotion, right?